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OFFICE OF PETITIONS

In re Application of :
Tomida et al. :
Application No. 09/284,244 :
Filed: April 14, 1999 :
Title: Data Processing Method of FM Multiplex :
Broadcasting Receiver :

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 25, 2005.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application was held abandoned for failure to timely file a response to a non-final Office Action which was mailed on February 28, 2001. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 29, 2001. A Notice of Abandonment was mailed on October 2, 2001.

Petitioner asserts that a reply to the non-final Office Action was timely submitted on May 29, 2001.¹ As evidence, petitioner has submitted a copy of a return postcard date stamped by the Office acknowledging receipt of the reply. The post card receipt serves as *prima facie* evidence that a reply to the Office Action was received in the Office. Additionally, petitioner has supplied a copy of the previously mailed amendment and drawings.

Although the evidence presented demonstrates a reply was timely submitted, the submission of the petition to withdraw the holding of abandonment is untimely. 37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed

¹It is noted May 28, 2001 was a federal holiday. Accordingly a reply on May 29, 2001 would be considered timely.

within 2 months from the action complained of may be dismissed as untimely. This petition was filed four years after the mailing of the Notice of Abandonment. As such the Office is requiring a terminal disclaimer as a condition of granting the petition to withdraw the holding of abandonment.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition
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Telephone inquiries concerning this matter should be directed to the undersigned at
(571) 272-3215.


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